

1 ROB BONTA
2 Attorney General of California
3 NICKLAS A. AKERS (SBN 211222)
4 Senior Assistant Attorney General
5 BERNARD A. ESKANDARI (SBN 244395)
6 Supervising Deputy Attorney General
7 JOSHUA OLSZEWSKI-JUBELIRER (SBN 336428)
8 MEGAN O'NEILL (SBN 343535)
9 MARISSA ROY (SBN 318773)
NAYHA ARORA (SBN 350467)
Deputy Attorneys General
455 Golden State Ave., Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-4400
Fax: (415) 703-5480
E-mail: Marissa.Roy@doj.ca.gov
Attorneys for The People of the State of California

10 *Additional parties and counsel listed on signature
pages*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

15 || *People of the State of California, et al.*

MDL No. 3047

16 || v.

Case Nos. 4:23-cv-05448-YGR

17 *Meta Platforms, Inc., Instagram, LLC, Meta*
18 *Payments, Inc., Meta Platforms Technologies,*
LLC

4:23-cv-05885-YGR

20 | *Office of the Attorney General, State of Florida,
Department of Legal Affairs*

**STATE ATTORNEYS GENERAL'S
RESPONSE TO PRO SE MOTION TO
INTERVENE**

Judge: Honorable Yvonne Gonzalez Rogers

22 | Meta Platforms, Inc. Instagram LLC

24 IN RE: SOCIAL MEDIA ADOLESCENT
25 ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

27 THIS DOCUMENT RELATES TO:
4:23-cv-05448 4:23-cv-05885

INTRODUCTION

2 Taiming Zhang’s (“Zhang”) pro se motion to intervene is an improper attempt to insert
3 private claims for individual relief into public law-enforcement actions brought by 33 state
4 attorneys general and the Florida Attorney General (collectively the “State AGs”). As this Court
5 recently held in denying a similar motion, the Federal Rules of Civil Procedure and this Circuit’s
6 precedent do not allow Zhang to intervene in this action: “This state attorneys general
7 enforcement action involves interests separate from [the proposed intervenor]’s. Further, the
8 instant case does not preclude [the proposed intervenor] from seeking relief on an individualized
9 basis.” Dkt. No. 80 at 1; *see also id.* at 5 (“[The proposed intervenor] is nonetheless free to file his
10 own complaint against defendant Meta. Nothing about this state attorneys general enforcement
11 action precludes him from doing so.”).

ARGUMENT

J. ZHANG HAS NO MANDATORY RIGHT TO INTERVENE.

14 Zhang cannot establish a mandatory right to intervene in this public enforcement action.
15 Rule 24(a) gives a right to intervene to anyone who is “given an unconditional right to intervene
16 by federal statute” or, alternatively, anyone who has (1) “an interest relating to the property or
17 transaction that is the subject of the action” that (2) would be “impair[ed] or impede[d]” if the
18 person was not permitted to intervene and (3) could not be “adequately represent[ed]” by the
19 existing parties. Fed. R. Civ. P. 24(a)(1)-(2); *see also, e.g., Cal. Dep’t of Toxic Substances*
20 *Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1086 (9th Cir. 2022). The burden is on Zhang to
21 establish that Rule 24’s factors are met. *Id.* Here, Zhang does not identify an unconditional right
22 to intervene and does not meet any of the three factors that would alternatively give rise to such a
23 right.

24 **First**, Zhang does not have a legally sufficient interest in the “property or transaction”
25 underlying this enforcement action. *See, e.g., Donaldson v. United States*, 400 U.S. 517, 531
26 (1971) (requiring a “significantly protectable interest”); *United States v. Alisal Water Corp.*, 370
27 F.3d 915, 919-20 (9th Cir. 2004) (holding that an “interest must be concrete,” not “several
28 degrees removed” or “prospective”). Here, the State AGs have brought a public enforcement

1 action that does not involve property that Zhang has a claim to, contracts Zhang is party to, or
 2 Zhang's economic interests. Zhang's interest in the State AGs' public enforcement action appears
 3 to derive from pending litigation against Twitter (not a defendant in the State AGs' action)
 4 involving allegations of breach of contract, tortious conduct, and common law fraud (not claims
 5 in the State AGs' action against Meta) seeking, among other remedies, reinstatement of Zhang's
 6 suspended Twitter account (not relief the State AGs are seeking). *See Complaint at ¶¶ 1, 42,*
 7 *Taiming Zhang v. Twitter, Inc.*, 3:23-cv-00980 (N.D. Cal., Mar. 2, 2023). Also, Zhang's possible
 8 generalized interest in the potential application of the Communications Decency Act to the State
 9 AGs' separate action is insufficient to support mandatory intervention. *See Donaldson*, 400 U.S.
 10 at 531. For this reason alone, Zhang's motion for mandatory intervention must be denied.

11 **Second**, the State AGs' public enforcement action against Meta has no impact on Zhang's
 12 interests because Zhang is free to engage in separate litigation. As the Court recently held in
 13 denying a similar attempt to intervene in this enforcement action, "an individual's interests are
 14 not impeded or impaired by a pending case when they can be 'raise[d] . . . through a separate
 15 lawsuit[.]" Dkt 80 at 3 (quoting *Warren v. Comm'r of Internal Revenue*, 302 F.3d 1012, 1015
 16 (9th Cir. 2002)) (alterations in original). As there, "[h]ere, [Zhang] is free to file a private action
 17 . . . and to seek consolidation of such an action with the multi-district litigation of which this case
 18 is a part." *Id.* Indeed, Zhang's separate action against Twitter demonstrates that the State AGs'
 19 separate public enforcement action against Meta in no way impedes Zhang's interests or ability to
 20 litigate.

21 **Third**, to the extent that Zhang has a generalized interest in the public rights that the State
 22 AGs seek to vindicate, the State AGs are best situated to represent that interest. When the
 23 government is representing the public, there is an "assumption of adequacy." *Arakaki v.*
 24 *Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003). Thus, the proposed intervenor must make a "very
 25 compelling showing" that the government cannot adequately represent public rights. *Oakland*
 26 *Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020). Zhang
 27 makes no showing, nor could Zhang. In sum, Zhang meets none of the requirements for
 28 mandatory intervention.

II. ZHANG HAS NO BASIS TO PERMISSIVELY INTERVENE.

In the absence of grounds for mandatory intervention, the Court may permit intervention to anyone who “is given a conditional right to intervene by a federal statute” or who “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(A)-(B). Zhang has not made either showing.

As an initial matter, Zhang does not identify a federal statute that provides a conditional right to intervene, and the State AGs are unaware of one. Further, there are no common questions of fact or law as Zhang appears to invoke contract, tort, and common-law theories that are absent from the State AGs' case. By contrast, as this Court observed, the state AG's action focuses on "misconduct stemming from Meta's (1) collection of data from users under thirteen years old without required parental notification and consent; (2) misrepresentations surrounding the safety of its social media platforms; and (3) the deceptive and unfair constellation of features that prolong engagement and lead to youth addiction." Dkt. 80 at 5 (citation and quotation marks omitted). These significant differences, and the fact that Zhang is "free to file his own complaint," Dkt. 80 at 5, underscore that permissive intervention should also be denied.

CONCLUSION

For these reasons, the State AGs respectfully request that the Court deny Taiming Zhang’s motion to intervene in this public enforcement action.

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Respectfully submitted,

/s/ Marissa Roy

Deputy Attorney General
California Department of Justice
Office of the Attorney General

*Attorney for Plaintiff the People of the State
of California*

1 **KRISTIN K. MAYES**
 2 Attorney General
 3 State of Arizona

4 /s/ Laura Dilweg
 5 Laura Dilweg (AZ No. 036066 CA No.
 6 260663)
 7 Consumer Protection Section Chief
 8 Counsel
 9 Nathan Whelihan (AZ No. 037560),
 10 *pro hac vice*
 11 Assistant Attorney General
 12 Arizona Attorney General's Office
 13 2005 North Central Avenue
 14 Phoenix, AZ 85004
 15 Phone: (602) 542-3725
 16 Fax: (602) 542-4377
 17 Laura.Dilweg@azag.gov
 18 Nathan.Whelihan@azag.gov

19 *Attorneys for Plaintiff State of Arizona, ex*
 20 *rel. Kristin K. Mayes, Attorney General*

21 **PHILIP J. WEISER**
 22 Attorney General
 23 State of Colorado

24 /s/ Bianca E. Miyata
 25 Bianca E. Miyata (CO Reg. No. 42012),
 26 *pro hac vice*
 27 Senior Assistant Attorney General
 28 Lauren M. Dickey (CO Reg. No. 45773)
 29 First Assistant Attorney General
 30 Megan Paris Rundlet (CO Reg. No. 27474)
 31 Senior Assistant Solicitor General
 32 Elizabeth Orem (CO Reg. No. 58309)
 33 Assistant Attorney General
 34 Colorado Department of Law
 35 Ralph L. Carr Judicial Center
 36 Consumer Protection Section
 37 1300 Broadway, 7th Floor
 38 Denver, CO 80203
 39 Phone: (720) 508-6651
 40 bianca.miyata@coag.gov

41 *Attorneys for Plaintiff State of Colorado, ex*
 42 *rel. Philip J. Weiser, Attorney General*

43 **WILLIAM TONG**
 44 Attorney General
 45 State of Connecticut

46 /s/ Lauren H. Bidra
 47 Lauren H. Bidra
 48 (CT Juris No. 440552), *pro hac vice*
 49 Special Counsel for Media and Technology
 50 Krislyn M. Launer
 51 (CT Juris No. 440789), *pro hac vice*
 52 Ashley H. Meskill
 53 (CT Juris No. 444377), *pro hac vice*
 54 Assistant Attorneys General
 55 Connecticut Office of the Attorney General
 56 165 Capitol Avenue
 57 Hartford, Connecticut 06106
 58 Phone: 860-808-5306
 59 Fax: 860-808-5593
 60 Lauren.Bidra@ct.gov
 61 Krislyn.Launer@ct.gov
 62 Ashley.Meskill@ct.gov

63 *Attorneys for Plaintiff State of Connecticut*

1 **KATHLEEN JENNINGS**2 Attorney General
State of Delaware3 */s/ Marion Quirk*4 Owen Lefkon
5 Director of Fraud and Consumer Protection
Marion Quirk, *pro hac vice*
6 Director of Consumer Protection
Dashiell Radostti (DE Bar 7100), *pro hac*
7 *vice*
Deputy Attorney General
8 Delaware Department of Justice
820 N. French Street, 5th Floor
9 Wilmington, DE 19801
Phone: (302) 683-8800
10 Dashiell.Radostti@delaware.gov11 *Attorneys for Plaintiff State of Delaware*12 **ASHLEY MOODY**13 Attorney General
State of Florida14 */s/ Victoria Ann Butler*15 Victoria Ann Butler (FL Bar No. 861250),
pro hac vice
16 Director of Consumer Protection Litigation
3507 E. Frontage Road, Suite 325
Tampa, FL 33607
Telephone: (813) 287-7950
17 Victoria.butler@myfloridalegal.com18 John M. Guard (FL Bar No. 374600),
pro hac vice
19 Chief Deputy Attorney General
PL-01 The Capitol
Tallahassee, FL 32399
20 John.guard@myfloridalegal.com21 Nicholas J. Weilhammer (FL Bar No.
479322),
pro hac vice
Associate Deputy Attorney General for
Enforcement
22 PL-01 The Capitol
Tallahassee, FL 32399
Telephone: (850) 414-3861
Nicholas.weilhammer@myfloridalegal.com23 Donna Cecilia Valin (FL Bar No. 96687),
pro hac vice
24 Special Counsel, Assistant Attorney General
135 West Central Blvd.
Orlando, FL 32801
Telephone: (407) 316-4840
25 Donna.valin@myfloridalegal.com26 Karen E. Berger (FL Bar No. 72991)
pro hac vice
27 Special Counsel, Assistant Attorney General
110 SE 6th Street, 10th Floor
Fort Lauderdale, FL 33301
Telephone: (954) 712-4600
Karen.berger@myfloridalegal.com28 *Attorneys for Office of the Attorney General,
State of Florida, Department of Legal Affairs*

1 **CHRISTOPHER M. CARR**2 Attorney General
2 State of Georgia3 /s/ Melissa M. Devine4 Melissa M. Devine (GA Bar No. 403670),
4 *pro hac vice*
5 Assistant Attorney General
6 Office of the Attorney General of the State
6 of Georgia
7 2 Martin Luther King Jr. Drive, SE, Ste. 356
7 Atlanta, GA 30334
8 Phone: (404) 458-3765
8 Fax: (404) 651-9108
9 mdevine@law.ga.gov10 *Attorneys for Plaintiff State of Georgia*12 **ANNE E. LOPEZ**13 Attorney General
13 State of Hawai‘i14 /s/ Christopher T. Han15 Bryan C. Yee (HI JD No. 4050),
15 *pro hac vice*
16 Supervising Deputy Attorney General
16 Christopher T. Han (HI JD No. 11311),
17 *pro hac vice*
18 Deputy Attorney General
18 Department of the Attorney General
19 Commerce and Economic Development
19 Division
20 425 Queen Street
21 Honolulu, Hawai‘i 96813
21 Phone: (808) 586-1180
22 Bryan.c.yee@hawaii.gov
22 Christopher.t.han@hawaii.gov23 *Attorneys for Plaintiff State of Hawai‘i*1 **RAÚL R. LABRADOR**2 Attorney General
2 State of Idaho3 By: /s/ Nathan Nielson4 Nathan H. Nielson (ID Bar No. 9234),
4 Stephanie N. Guyon (ID Bar No. 5989)
5 *pro hac vice*
6 Deputy Attorneys General
6 Attorney General’s Office
7 P.O. Box 83720
7 Boise, ID 83720-0010
8 (208) 334-2424
9 nathan.nielson@ag.idaho.gov
9 stephanie.guyon@ag.idaho.gov10 *Attorneys for Plaintiff State of Idaho*

1 **KWAME RAOUL**
 2 Attorney General
 3 State of Illinois

4 By: /s/ Daniel Edelstein
 5 Susan Ellis, Chief, Consumer Protection
 6 Division (IL Bar No. 6256460)
 7 Greg Grzeskiewicz, Chief, Consumer Fraud
 8 Bureau (IL Bar No. 6272322)
 9 Jacob Gilbert, Deputy Chief, Consumer
 10 Fraud Bureau (IL Bar No. 6306019)
 11 Daniel Edelstein, Supervising Attorney,
 12 Consumer Fraud Bureau (IL Bar No.
 13 6328692), *pro hac vice*
 14 Kevin Whelan, Supervising Attorney,
 15 Consumer Fraud Bureau (IL Bar No.
 16 6321715), *pro hac vice*
 17 Matthew Davies, Assistant Attorney
 18 General, Consumer Fraud Bureau (IL Bar
 19 No. 6299608), *pro hac vice*
 20 Adam Sokol, Senior Assistant Attorney
 21 General, Consumer Fraud Bureau (IL Bar
 22 No. 6216883)
 23 Emily María Migliore, Assistant Attorney
 24 General, Consumer Fraud Bureau (IL Bar
 25 No. 6336392)
 26 Office of the Illinois Attorney General
 27 115 S. LaSalle Street
 28 Chicago, Illinois 60603
 29 312-814-8554
 30 Susan.Ellis@ilag.gov
 31 Greg.Grzeskiewicz@ilag.gov
 32 Jacob.Gilbert@ilag.gov
 33 Daniel.Edelstein@ilag.gov
 34 Kevin.Whelan@ilag.gov
 35 Adam.Sokol@ilag.gov
 36 Emily.Migliore@ilag.gov

37 *Attorneys for Plaintiff the People of the State*
 38 *of Illinois*

1 **THEODORE E. ROKITA**
 2 Attorney General
 3 State of Indiana

4 */s/ Scott L. Barnhart*
 5 Scott L. Barnhart (IN Atty No. 25474-82),
 6 *pro hac vice*
 7 Chief Counsel and Director of Consumer
 8 Protection
 9 Corinne Gilchrist (IN Atty No. 27115-53),
 10 *pro hac vice*
 11 Section Chief, Consumer Litigation
 12 Mark M. Snodgrass (IN Atty No. 29495-49),
 13 *pro hac vice*
 14 Deputy Attorney General
 15 Office of the Indiana Attorney General
 16 Indiana Government Center South
 17 302 West Washington St., 5th Floor
 18 Indianapolis, IN 46203
 19 Telephone: (317) 232-6309
 20 Scott.Barnhart@atg.in.gov
 21 Corinne.Gilchrist@atg.in.gov
 22 Mark.Snodgrass@atg.in.gov

23 *Attorneys for Plaintiff State of Indiana*

24 **KRIS W. KOBACH**
 25 Attorney General
 26 State of Kansas

27 */s/ Sarah M. Dietz*
 28 Sarah M. Dietz
 29 (KS Bar No. 27457), *pro hac vice*
 30 Assistant Attorney General
 31 Office of the Attorney General
 32 120 SW 10th Avenue, 2nd Floor
 33 Topeka, Kansas 66612
 34 Telephone: (785) 296-3751
 35 Fax: (785) 296-3131
 36 Email: sarah.dietz@ag.ks.gov

37 *Attorney for Plaintiff State of Kansas*

1 **RUSSELL COLEMAN**
 2 Attorney General
 3 Commonwealth of Kentucky

4 */s/ J. Christian Lewis*
 5 J. Christian Lewis (KY Bar No. 87109),
 6 *pro hac vice*
 7 Philip Heleringer (KY Bar No. 96748),
 8 *pro hac vice*
 9 Zachary Richards (KY Bar No. 99209),
 10 *pro hac vice app. forthcoming*
 11 Daniel I. Keiser (KY Bar No. 100264),
 12 *pro hac vice*
 13 Assistant Attorneys General
 14 1024 Capital Center Drive, Ste. 200
 15 Frankfort, KY 40601
 16 Christian.Lewis@ky.gov
 17 Philip.Heleringer@ky.gov
 18 Zach.Richards@ky.gov
 19 Daniel.Keiser@ky.gov
 20 Phone: (502) 696-5300
 21 Fax: (502) 564-2698

22 *Attorneys for Plaintiff the Commonwealth of*
 23 *Kentucky*

24 **LIZ MURRILL**
 25 Attorney General
 26 State of Louisiana

27 */s/ Arham Mughal*
 28 Arham Mughal (LA Bar No. 38354),
 29 *pro hac vice*
 30 L. Christopher Styron (LA Bar No. 30747),
 31 *pro hac vice*
 32 Assistant Attorneys General
 33 Louisiana Department of Justice
 34 Office of the Attorney General
 35 Public Protection Division
 36 Consumer Protection Section
 37 1885 N 3rd Street, 4th Floor
 38 Baton Rouge, LA 70802
 39 Tel: (225) 326-6438
 40 MughalA@ag.louisiana.gov
 41 StyronL@ag.louisiana.gov

42 *Attorneys for State of Louisiana*

43 **AARON M. FREY**
 44 Attorney General
 45 State of Maine

46 */s/ Michael Devine*
 47 Michael Devine, Maine Bar No. 5048,
 48 *pro hac vice*
 49 Laura Lee Barry Wommack, Maine Bar No.
 50 10110, *pro hac vice*
 51 Assistant Attorneys General
 52 Office of the Maine Attorney General
 53 6 State House Station
 54 Augusta, ME 04333
 55 (207) 626-8800
 56 michael.devine@maine.gov
 57 lauralee.barrywommack@maine.gov

58 *Attorneys for Plaintiff State of Maine*

59 **ANTHONY G. BROWN**
 60 Attorney General
 61 State of Maryland

62 */s/ Elizabeth J. Stern*
 63 Philip D. Ziperman (Maryland CPF No.
 64 9012190379), *pro hac vice*
 65 Deputy Chief, Consumer Protection Division
 66 Elizabeth J. Stern (Maryland CPF No.
 67 1112090003), *pro hac vice*
 68 Assistant Attorney General
 69 Office of the Attorney General of Maryland
 70 200 St. Paul Place
 71 Baltimore, MD 21202
 72 Phone: (410) 576-6417 (Mr. Ziperman)
 73 Phone: (410) 576-7226 (Ms. Stern)
 74 Fax: (410) 576-6566
 75 pziperman@oag.state.md.us
 76 estern@oag.state.md.us

77 *Attorneys for Plaintiff Office of the Attorney*
 78 *General of Maryland*

1 **DANA NESSEL**
 2 Attorney General
 3 State of Michigan

4 */s/ Daniel J. Ping*
 5 Daniel J. Ping (P81482), *pro hac vice*
 6 Assistant Attorney General
 7 Michigan Department of Attorney General
 8 Corporate Oversight Division
 9 P.O. Box 30736
 10 Lansing, MI 48909
 11 517-335-7632
 12 PingD@michigan.gov

13 *Attorneys for Plaintiff State of Michigan*

14 **KEITH ELLISON**
 15 Attorney General
 16 State of Minnesota

17 */s/ Caitlin Micko*
 18 Caitlin Micko (MN Bar No. 0395388),
 19 *pro hac vice*
 20 Assistant Attorney General
 21 Office of the Minnesota Attorney General
 22 445 Minnesota Street, Suite 1200
 23 St. Paul, MN 55101-2130
 24 Tel: (651) 724-9180
 25 caitlin.micko@ag.state.mn.us

26 *Attorney for Plaintiff State of Minnesota, by*
 27 *its Attorney General, Keith Ellison*

1 **ANDREW BAILEY**
 2 Attorney General
 3 State of Missouri

4 *By: /s/ Michael Schwalbert*
 5 Michael Schwalbert, *pro hac vice*
 6 Assistant Attorney General
 7 Consumer Protection Section
 8 Missouri Attorney General's Office
 9 815 Olive Street | Suite 200
 10 Saint Louis, Missouri 63101
 11 michael.schwalbert@ago.mo.gov
 12 Phone: 314-340-7888
 13 Fax: 314-340-7981

14 *Attorney for Plaintiff State of Missouri, ex*
 15 *rel. Andrew Bailey, Attorney General*

16 **MICHAEL T. HILGERS**
 17 Attorney General
 18 State of Nebraska

19 */s/ Colin P. Snider*
 20 Colin P. Snider (NE #27724)
 21 Assistant Attorney General
 22 *pro hac vice*
 23 Nebraska Attorney General's Office
 24 2115 State Capitol Building
 25 Lincoln, NE 68509
 26 Phone: (402) 471-2682
 27 Email: colin.snider@nebraska.gov

28 *Attorney for Plaintiff State of Nebraska*

1 **MATTHEW J. PLATKIN**
 2 Attorney General
 3 State of New Jersey

4 By: /s/ Kashif T. Chand
 5 Kashif T. Chand (NJ Bar No. 016752008),
 6 *pro hac vice*
 7 Section Chief, Deputy Attorney General
 8 Thomas Huynh (NJ Bar No. 200942017),
 9 *pro hac vices*
 10 Assistant Section Chief, Deputy Attorney
 11 General
 12 Gina F. Pittore (NJ Bar No. 323552019), *pro*
 13 *hac vice*
 14 Verna J. Pradaxay (NJ Bar No. 335822021),
 15 *pro hac vice*
 16 Mandy K. Wang (NJ Bar No. 373452021),
 17 *pro hac vice*
 18 Deputy Attorneys General
 19 New Jersey Office of the Attorney General,
 20 Division of Law
 21 124 Halsey Street, 5th Floor
 22 Newark, NJ 07101
 23 Tel: (973) 648-2052
 24 Kashif.Chand@law.njoag.gov
 25 Thomas.Huynh@law.njoag.gov
 26 Gina.Pittore@law.njoag.gov
 27 Verna.Pradaxay@law.njoag.gov
 28 Mandy.Wang@law.njoag.gov

18 *Attorneys for Plaintiffs State of New Jersey*
 19 *and the New Jersey Division of Consumer*
 20 *Affairs*

1 **LETITIA JAMES**
 2 Attorney General
 3 State of New York

4 */s/ Christopher D'Angelo*
 5 Christopher D'Angelo, Chief Deputy
 6 Attorney General, Economic Justice
 7 Division
 8 (NY Bar No. 4348744), *pro hac vice*
 9 Christopher.D'Angelo@ag.ny.gov
 10 Clark Russell, Deputy Chief, Bureau of
 11 Internet and Technology
 12 (NY Bar No. 2848323), *pro hac vice*
 13 Clark.Russell@ag.ny.gov
 14 Nathaniel Kosslyn, Assistant Attorney
 15 General (NY Bar No. 5773676), *pro hac vice*
 16 Nathaniel.Kosslyn@ag.ny.gov
 17 New York State Office of the Attorney
 18 General
 19 28 Liberty Street
 20 New York, NY 10005
 21 (212) 416-8262

22 *Attorneys for Plaintiff the People of the State*
 23 *of New York*

1 **JOSHUA H. STEIN**
 2 Attorney General
 3 State of North Carolina

4 */s/ Kevin Anderson*
 5 Kevin Anderson (N.C. Bar No. 22635),
 6 *pro hac vice*
 7 Senior Counsel
 8 Sarah G. Boyce
 9 Deputy Attorney General & General Counsel
 10 Jasmine S. McGhee
 11 Senior Deputy Attorney General
 12 Josh Abram
 13 Kunal Choksi
 14 Special Deputy Attorneys General
 15 Charles G. White
 16 Assistant Attorney General
 17 N.C. Department of Justice
 18 Post Office Box 629
 19 Raleigh, North Carolina 27602
 20 Telephone: (919) 716-6006
 21 Facsimile: (919) 716-6050
 22 kander@ncdoj.gov

23 *Attorneys for Plaintiff State of North*
 24 *Carolina*

25 **DREW H. WRIGLEY**
 26 Attorney General
 27 State of North Dakota

28 By: */s/ Elin S. Alm*
 1 Elin S. Alm, *pro hac vice*
 2 (ND Bar No. 05924)
 3 Assistant Attorney General
 4 Christopher G. Lindblad, *pro hac vice*
 5 (ND Bar No. 06480)
 6 Assistant Attorney General
 7 Consumer Protection and Antitrust Division
 8 Office of Attorney General
 9 1720 Burlington Drive, Suite C
 10 Bismarck, ND 58504-7736
 11 Telephone (701) 328-5570
 12 ealm@nd.gov
 13 clindblad@nd.gov

14 *Attorneys for Plaintiff State of North Dakota,*
 15 *ex rel. Drew H. Wrigley, Attorney General*

16 **DAVE YOST**
 17 Attorney General
 18 State of Ohio

19 */s/ Kevin R. Walsh*
 20 Melissa G. Wright (Ohio Bar No. 0077843)
 21 Section Chief, Consumer Protection Section
 22 Melissa.Wright@ohioago.gov
 23 Melissa S. Smith (Ohio Bar No. 0083551)
 24 Asst. Section Chief, Consumer Protection
 25 Section
 26 Melissa.S.Smith@ohioago.gov
 27 Michael S. Ziegler (Ohio Bar No. 0042206)
 28 Principal Assistant Attorney General
 1 Michael.Ziegler@ohioago.gov
 2 Kevin R. Walsh (Ohio Bar No. 0073999),
 3 *pro hac vice*
 4 Kevin.Walsh@ohioago.gov
 5 Senior Assistant Attorney General
 6 30 East Broad Street, 14th Floor
 7 Columbus, Ohio 43215
 8 Tel: 614-466-1031

9 *Attorneys for State of Ohio, ex rel. Attorney*
 10 *General Dave Yost*

1 **ELLEN F. ROSENBLUM**
 2 Attorney General
 3 State of Oregon

4 /s/ Jordan M. Roberts
 5 Jordan M. Roberts (Oregon Bar No.
 6 115010), *pro hac vice*
 7 Assistant Attorney General
 8 Oregon Department of Justice
 9 Consumer Protection Section
 10 100 SW Market Street
 11 Portland, Oregon 97201
 12 Telephone: (971) 673-1880
 13 Facsimile: (971) 673-1884
 14 E-mail: jordan.m.roberts@doj.state.or.us

15 *Attorneys for State of Oregon, ex rel.*
 16 *Ellen F. Rosenblum, Attorney General*
 17 *for the State of Oregon*

18 **MICHELLE A. HENRY**
 19 Attorney General
 20 Commonwealth of Pennsylvania

21 /s/ Timothy R. Murphy
 22 Timothy R. Murphy
 23 Senior Deputy Attorney General
 24 (PA Bar No. 321294), *pro hac vice*
 25 Email: tmurphy@attorneygeneral.gov
 26 Jonathan R. Burns
 27 Deputy Attorney General
 28 (PA Bar No. 315206), *pro hac vice*
 29 Email: jburns@attorneygeneral.gov
 30 Pennsylvania Office of Attorney General
 31 Strawberry Square, 14th Floor
 32 Harrisburg, PA 17120
 33 Tel: 717.787.4530

34 *Attorneys for Plaintiff the Commonwealth of*
 35 *Pennsylvania*

1 **PETER F. NERONHA**
 2 Attorney General
 3 State of Rhode Island

4 /s/ Stephen N. Provazza
 5 Stephen N. Provazza (R.I. Bar No. 10435),
 6 *pro hac vice*
 7 Special Assistant Attorney General
 8 Rhode Island Office of the Attorney General
 9 150 South Main St.
 10 Providence, RI 02903
 11 Phone: 401-274-4400
 12 Email: SProvazza@riag.ri.gov

13 *Attorneys for Plaintiff State of Rhode Island*

14 **ALAN WILSON**
 15 Attorney General
 16 State of South Carolina

17 /s/ Anna C. Smith
 18 C. Havird Jones, Jr.
 19 Senior Assistant Deputy Attorney General
 20 Jared Q. Libet (S.C. Bar No. 74975),
 21 *pro hac vice*
 22 Assistant Deputy Attorney General
 23 Anna C. Smith (SC Bar No. 104749),
 24 *pro hac vice*
 25 Assistant Attorney General
 26 Clark C. Kirkland, Jr. (CA SBN 272522)
 27 Assistant Attorney General
 28 Office of the Attorney General of South
 29 Carolina
 30 P.O. Box 11549
 31 Columbia, South Carolina 29211
 32 Tel: (803) 734-0536
 33 annasmith@scag.gov

34 *Attorneys for Plaintiff the State of South*
 35 *Carolina, ex rel. Alan M. Wilson, in His*
 36 *Official Capacity as Attorney General of the*
 37 *State of South Carolina*

1 **MARTY J. JACKLEY**
 2 Attorney General
 3 State of South Dakota

4 /s/ Jessica M. LaMie
 5 By: Jessica M. LaMie (SD Bar No. 4831),
 6 *pro hac vice*
 7 Assistant Attorney General
 8 1302 East Highway 14, Suite 1
 9 Pierre, SD 57501-8501
 10 Telephone: (605) 773-3215
 11 Jessica.LaMie@state.sd.us

12 *Attorneys for Plaintiff State of South Dakota*

13 **JASON S. MIYARES**
 14 Attorney General
 15 Commonwealth Of Virginia

16 /s/ Joelle E. Gotwals
 17 Steven G. Popps
 18 Deputy Attorney General
 19 Richard S. Schweiker, Jr.
 20 Senior Assistant Attorney General and
 21 Section Chief
 22 Joelle E. Gotwals (VSB No. 76779),
 23 *pro hac vice*
 24 Assistant Attorney General
 25 Office of the Attorney General of Virginia
 26 Consumer Protection Section
 27 202 N. 9th Street
 28 Richmond, Virginia 23219
 29 Telephone: (804) 786-8789
 30 Facsimile: (804) 786-0122
 31 E-mail: jgotwals@oag.state.va.us

32 *Attorneys for the Plaintiff Commonwealth of*
 33 *Virginia ex rel. Jason S. Miyares, Attorney*
 34 *General*

1 **ROBERT W. FERGUSON**
 2 Attorney General
 3 State of Washington

4 /s/ Joseph Kanada
 5 Joseph Kanada (WA Bar No. 55055),
 6 *pro hac vice*
 7 Alexandra Kory (WA Bar No. 49889),
 8 *pro hac vice*
 9 Rabi Lahiri
 10 Gardner Reed
 11 Assistant Attorneys General
 12 Washington State Office of the Attorney
 13 General
 14 800 Fifth Avenue, Suite 2000
 15 Seattle, WA 98104
 16 (206) 389-3843
 17 Joe.Kanada@atg.wa.gov

18 *Attorneys for Plaintiff State of Washington*

19 **PATRICK MORRISEY**
 20 Attorney General
 21 State of West Virginia

22 /s/ Laurel K. Lackey
 23 Laurel K. Lackey (WVSB No. 10267),
 24 *pro hac vice*
 25 Abby G. Cunningham (WVSB No. 13388)
 26 Assistant Attorneys General
 27 Office of the Attorney General
 28 Consumer Protection & Antitrust Division
 29 Eastern Panhandle Office
 30 269 Aikens Center
 31 Martinsburg, West Virginia 25404
 32 (304) 267-0239
 33 laurel.k.lackey@wvago.gov

34 *Attorneys for Plaintiff State of West Virginia,*
 35 *ex rel. Patrick Morrisey, Attorney General*

1 **JOSHUA L. KAUL**

2 Attorney General
3 State of Wisconsin

4 /s/ R. Duane Harlow

5 R. Duane Harlow
6 Assistant Attorney General
7 WI State Bar #1025622, *pro hac vice*
8 Wisconsin Department of Justice
9 Post Office Box 7857
10 Madison, Wisconsin 53707-7857
11 (608) 266-2950
12 harlowrd@doj.state.wi.us

13 *Attorneys for Plaintiff State of Wisconsin*

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1 **ATTESTATION**

2 I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of
3 this document has been obtained from each signatory hereto.

4
5 DATED: March 25, 2024

By: /s/ Marissa Roy

6 Marissa Roy

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CERTIFICATE OF SERVICE

3 I hereby certify that on March 25, 2024, I electronically filed the foregoing document with
4 the Clerk of the Court using the CM/ECF system and processed the foregoing document for
5 service by mail to Taiming Zhang at the address provided, 801, No. 21 Taishan Lane, Zhongshan
6 District, Dalian, Liaoning, China.

By: /s/ Marissa Roy

Marissa Roy